

SURVIVOR BENEFITS FOR RECALLED RESERVISTS

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When a reservist dies on active duty or is medically retired and the cause is related to military service, the member and/or surviving dependents are entitled to a variety of benefits. The benefits may include active duty/retired pay, medical care, survivor benefits, dependency and indemnity compensation, death gratuities, and others. A basic understanding of these benefits is important in making any estate-related decisions.

Retired Pay

The provisions of certain U.S. laws (specifically Title 10, U.S. Code) governing the separation or retirement of military personnel were enacted primarily to ensure a vital, fit military force and to provide certain benefits and protections if a member's career ends prematurely due to injury, illness, or death. If a reservist is severely injured or becomes medically unfit for military duty through an injury or illness that is service connected, a medical board will be convened to rate the reservist according to the policies established by the service and the Department of Veterans Affairs (VA), Schedule for Rating Disabilities.¹ To be medically retired, a member must be rated as 30 percent or more disabled under the schedule. By law, no disabled servicemember may receive more than 75 percent of base pay. Though retirement pay is normally taxable income, a reservist who was under an obligation to serve in the military before September 24, 1975, may be eligible to exclude the disability part of retired pay from tax liability.

If a reservist is rated with a 20 percent disability or less and has fewer than 20 qualifying years of service, the reservist is entitled to severance pay. The reservist also may be entitled to transition benefits due to being involuntarily separated. Disability severance pay is computed by multiplying monthly base pay times two (2), times the years of service (not to exceed 12 years). For reservists, years of service are computed based on points. Taxes are withheld from severance pay.

Basic pay rates are available at <http://pay2000.dtic.mil>. New cost of living allowance (COLA) rates are available at <http://www.dtic.mil/perdiem/rateinfo.html>.

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Veterans Disability Compensation

Any member separated or retired from the service may file a claim with the VA for service-connected disability compensation. VA disability compensation varies with degree of disability and number of dependents and is paid monthly; benefits are not subject to federal or state income tax. If a member is separated or retired from the service due to a medical condition, VA disability payments will affect the amount of military retirement pay. Retired members who receive disability compensation from the VA waive military retired pay equal to the amount of VA compensation received. If the amount of VA compensation exceeds retired pay, retired pay is waived.

The VA has a separate and distinct policy in rating servicemembers. The military services generally rate only unfitting conditions. The VA is concerned with a disabled veteran's overall civilian employability and how it is or is not affected by the disability. This emphasis on civilian employment allows the VA more flexibility in addressing the disability of a servicemember.

Because the military services and the VA apply different policy standards, differences in the overall disability findings occur. (See <http://www.vba.va.gov/ro/desmoines/c&pdocs/factsheet/compensation.htm>.)

Survivor Benefit Plan (SBP)

The SBP pays a maximum annuity of 55 percent of the deceased servicemember's retired pay to the surviving (or former) spouse or children. It is taxable income. As an example, if a critically ill servicemember receives retired pay that is 75 percent of basic pay, the surviving dependent would be entitled to a maximum of 55 percent of that percentage. There is a dollar-for-dollar offset between death indemnity compensation (DIC) and spouse SBP. However, depending on the retired pay entitlement, SBP may exceed the DIC amount. SBP continues for the life of the spouse unless the spouse remarries before age 55.

If SBP is elected for children, DIC has no offsetting impact on the children's SBP entitlements. Consequently, the flexibility of options for a member facing retirement allows for weighing long-term versus short-term benefits according to the number of dependents and their ages.

When the surviving spouse reaches age 62, a Social Security offset reduces the SBP amount to 35 percent of retired pay. The member may elect up to four supplemental units to replace some or all of the SBP annuity reduction as a result of this. These units tend to be very expensive; but in the case of a reservist medically retired for a life-threatening condition or injury, the high premiums may be warranted.

Additional information is available at <http://www.dfas.mil>. Click on the category “Money Matters,” then click on “Retired and Annuitant Pay,” then click on “Annuitant Survivor Benefits Guide.”

As a result of the September 11th attack on the Pentagon and the National Defense Authorization Act for fiscal year 2002, the dependents of military personnel who die on active duty will be entitled to the SBP annuity based on 100 percent disability retirement. Note that this entitlement for dependents will not necessarily benefit all surviving spouses or children.

Dependency and Indemnity Compensation (DIC)

Dependents of a member who dies from a service-connected disability or injury are entitled to compensation from the VA. DIC is a tax-free survivor benefit administered by the VA. DIC is currently \$912 per month for a spouse and \$222 per child (more for children of a single parent, based on number of children). The automatic entitlement is paid to surviving dependents (spouse and/or children) when a death occurs in one of the following circumstances:

- on active duty
- as a direct result of a service-connected disability
- as a partial result of a service-connected disability
- after the veteran had been rated 100 percent disabled by the VA

Spouses receive this benefit for life so long as they do not remarry. Children are eligible until age 18, when they become eligible for Supplemental DIC of \$188 up to age 23, if single. Additional information is available at <http://www.vba.va.gov/bln/21/Rates/comp03b.htm>.

Servicemember's Group Life Insurance (SGLI) /Veterans Group Life Insurance (VGLI)

SGLI automatically covers every active duty servicemember with a death benefit of up to \$250,000 while on active duty, for 120 days after discharge or retirement (unless the coverage has been specifically declined). The coverage extends for one full year following 100 percent disability separation, with no premium cost during that period. SGLI can easily be converted to VGLI for the same amount of coverage within 120 days following separation. The benefit is payable to the family in either a lump sum or 36 monthly installments. Information is available at <http://www.insurance.va.gov>.

Social Security Survivor Benefits

Spouses caring for children under 16 years of age may be entitled to 75 percent of Primary Insurance Amount (PIA). Once the youngest child turns 16, the benefit to the spouse ends but can be reapplied for

once the spouse reaches age 60. In addition, each child under 18 (19 if still in high school) also may be entitled to 75 percent of PIA. However, the entire family is subject to a maximum benefit of 1.75 times the PIA. Benefits are determined by the Social Security Administration.

Miscellaneous Benefits

There is a multitude of other survivor benefits. Some of these include service disabled veteran's life insurance, a death gratuity from the respective service, Social Security lump sum death payment, dependents' educational assistance, medical and dental care, military housing, and other miscellaneous benefits.

Many reservists called to active duty inevitably suffer financial losses. The hope is that these losses are temporary, but a reservist who dies or is seriously injured on active duty can leave a family with substantial financial consequences. All of the services provide a Casualty Assistance Officer to assist surviving family members with benefits issues. The Legal Assistance program provides legal advice; counseling and other services are available through Family Services programs.

The armed services go to extraordinary effort to ensure that families of those who go in harm's way are well cared for. This is a long-standing military tradition. All of the above benefits are simply the least that can be expected of a grateful nation.

Biographical Statement

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Notes

1. Title 38, Part 4, Code of Federal Regulations.